

Spangenberg



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Rocky Ridge Contractors, Inc.

File: B-224862

Date: December 19, 1986

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### DIGEST

A bidder submitted its low price on initial invitation for bids (IFB) schedule calling for bid on "complete" construction project, instead of on the revised schedule contained in an amendment which, among other things, deleted six buildings and requested a base bid price on the remaining work plus three additive alternates for three buildings included in the initial IFB. Since the low bidder expressly acknowledged the amendment, bid in effect was an "all or none" bid and award may be made for complete project since sufficient funds existed to make award of base bid and all additive alternates.

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### DECISION

Rocky Ridge Contractors, Inc. (Rocky Ridge), protests the award of a contract to Southern Comfort Insulation, Inc. (Southern Comfort), under invitation for bids (IFB) No. DACA01-86-B-0110 by the United States Army Corps of Engineers (Corps), Mobile, Alabama, for the construction of facility energy improvements at the Anniston Army Ammunition Plant, Alabama.

We deny the protest.

The IFB was issued on August 15, 1986, requesting a single bid price for the complete project. On September 5, 1986, the Corps issued amendment 0001 to the IFB, which deleted six buildings, made various technical revisions to the specifications, and changed the bid schedule. The revised bid schedule requested a base bid price for all the amended facility energy improvements, except for three buildings. These three buildings, which had been included in the initial IFB work, were three numbered additive alternates on the revised bid schedule. The amendment also added the standard

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"Additive or Deductive Items" clause, Department of Defense Federal Acquisition Regulation (DFARS), 48 C.F.R. § 52.236-7082 (1985), which provided for a single award of the base bid and those additive alternates within the available funds. The amendment also stated "Bidders must insert a price on all numbered items of the Bidding Schedule. Failure to do so will disqualify the bid."

Bids were opened on September 16, 1986. Southern Comfort's bid of \$325,000 was submitted on the original IFB bid schedule, which requested a single price for one "Facility Energy Improvements, Complete" job. Southern Comfort's bid specifically acknowledged amendment 0001. Rocky Ridge's bid, which also acknowledged amendment 0001, was submitted on the revised bid schedule and totaled \$344,300, including all three additive alternates which it separately priced.

On September 30, 1986, award was made in the amount of \$325,000 to Southern Comfort for the base bid and the three additive alternates. Before making the award, the Corps obtained a price breakdown of the base bid and the additive alternates from Southern Comfort and confirmed that the bid price included all these items.

On October 3, 1986, Rocky Ridge protested that Southern Comfort's bid is nonresponsive since it did not quote the - base bid and three additive alternates on the revised bid schedule as required by the amendment. Rocky Ridge also contends that Southern Comfort's failure to use the proper bid schedule creates doubts whether it was actually bound to the material performance related changes contained in amendment 0001. Rocky Ridge asserts these material changes include adding a specific criteria for the insulating panels to be supplied and substantial additional work insulating condensate return lines.

The test to be applied in determining bid responsiveness is whether the bid as submitted is an offer to perform, without exception, the exact thing called for in the invitation, which, upon acceptance, will bind the contractor to perform in accordance with all the terms and conditions thereof. Challenger Piping, Inc., B-221855, Apr. 18, 1986, 65 Comp. Gen. \_\_\_, 86-1 C.P.D. ¶ 385; JEM Development Corp., B-209707, Apr. 22, 1983, 83-1 C.P.D. ¶ 444.

Southern Comfort's specific acknowledgment of amendment 0001 bound it to perform all work as substantively changed in the amendment. Herman H. Neumann Construction, 55 Comp. Gen. 168, 170 (1975), 75-2 C.P.D. ¶ 244; JEM Development Corp., B-209707, supra. That amendment, among other things, deleted

from initial IFB requirements six buildings and made three other buildings additive alternates on the revised bid schedule.

Southern Comfort's bid price on the initial IFB schedule was a price for the "complete" facility energy improvements job. That is, Southern Comfort, in effect, submitted an "all or none" bid for the amended project, i.e., the base bid plus the three additive alternates. Reliable Elevator Corp., B-213245.2, Mar. 7, 1984, 84-1 C.P.D. ¶ 276; Suburban Industrial Maintenance Co., B-187996, Mar. 23, 1977, 77-1 C.P.D. ¶ 206. In this regard, we have recognized that bidders may condition their bids on obtaining all work listed in the IFB, unless such bids are expressly prohibited in the IFB. Martin & Turner Supply Co., 54 Comp. Gen. 395 (1974), 74-2 C.P.D. ¶ 267; Paragon Van Lines, Inc., B-222018.2, June 25, 1986, 86-1 C.P.D. ¶ 591; Reliable Elevator Corp., B-213245.2, supra. In the present case, "all or none" bids were not prohibited; indeed, only one award was contemplated.

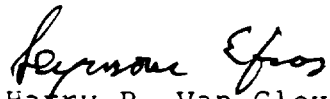
On a solicitation requesting a base bid and various additive and/or deductive items, bids must be evaluated on the basis of the work actually awarded; any evaluation which incorporates more or less than the work that will be awarded fails to obtain for the government the benefits of full competition on the work that will be performed. Sterling Engineering & Construction Co., Inc., 55 Comp. Gen. 443 (1975), 75-2 C.P.D. ¶ 293; Fletcher & Sons Inc., B-212530.2, Dec. 13, 1983, 83-2 C.P.D. ¶ 678. Since sufficient funds were available to make the award of the base bid and all additives in this case, Southern Comfort's "all or none" bid could be accepted as responsive; its failure to timely break down its separate prices for the base bid and additives is a minor informality not requiring rejection of its bid. Sterling Engineering & Construction Co., Inc., 55 Comp. Gen. supra. See also, Zimmerman Plumbing & Heating Co., Inc.--Reconsideration, B-211879.2, Aug. 8, 1983, 83-2 C.P.D. ¶ 182 (if award is made to the low bidder on the entire project, mistakes by that bidder in deductive items on the project do not require rejection of its bid), and 51 Comp. Gen. 792 (1972) and Stroh Corp., B-209470, Feb. 8, 1983, 83-1 C.P.D. ¶ 143 (bidders which fail to bid on additive items will be eliminated from the competition only where the evaluation process set forth in the IFB dictates acceptance of the additives not bid.) Of course, Southern Comfort's bid ran the risk of being rejected as nonresponsive, if the Corps did not have sufficient funds for all items. Martin J. Simko Construction Inc., 60 Comp. Gen. 327 (1981), 81-1 C.P.D. ¶ 209.

Rocky Ridge notes that the IFB expressly required that if prices are not submitted on the base bid and additives, the bid must be rejected. However, we have held that the required commitment to the terms of an IFB need not be made in the manner specified by the solicitation; all that is necessary is that the bidder, in some fashion, commit itself to the IFB's material requirements. Challenger Piping Inc., 65 Comp. Gen. supra. Since Southern Comfort's bid unambiguously offers to perform all the work as amended--both the base bid and additives--which was the basis for award, the IFB statement that bids failing to price each item would be rejected as nonresponsive does not require rejection of Southern Comfort's bid. Reliable Elevator Corp., supra.

Rocky Ridge has cited a number of cases where bids on an initial IFB bid schedule instead of an amended bid schedule were rejected, even though the bid expressly acknowledged the amendments. E. H. Morrill Co., B-214556, May 3, 1984, 84-1 C.P.D. ¶ 508; Fischer-White-Rankin Contractors, Inc., B-213401, Apr. 24, 1984, 84-1 C.P.D. ¶ 471; and Ventura Manufacturing Co., B-193258, Mar. 21, 1979, 79-1 C.P.D. ¶ 194; see also Main Electric Ltd., B-224026, Nov. 3, 1986, 86-2 C.P.D. ¶ \_\_\_\_\_. However, in each of these cases, the revised bid schedule specifically listed additional material items that were not included in the initial IFB and its schedule. Rejection of the bids using the wrong bid schedule was required in these cases because it was unclear that the bidders bound themselves to perform the additional material items. See Fischer-White-Rankin Contractors, Inc., B-213401, supra.

In the present case, the initial IFB included all buildings for which the revised bid schedule solicited prices, both base bid and additive alternates. Therefore, the present case is more analogous to JEM Development Corp., supra, and Cilleson Construction Corp., B-212565, Nov. 15, 1983, 83-2 C.P.D. ¶ 568, where we found that bids erroneously using the initial bid schedules instead of the bid schedules added by amendments were nevertheless responsive if the bids expressly acknowledged the amendments, since the items listed on the initial bid schedules encompassed the work affected by the amendments.

Rocky Ridge's protest is therefore denied.

*for*   
Harry R. Van Cleve  
General Counsel